



## **COMMUNITY DEVELOPMENT DEPARTMENT**

---

**17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236**  
**Website Address: [www.morgan-hill.ca.gov](http://www.morgan-hill.ca.gov)**

### **PLANNING COMMISSION MEETING MINUTES**

#### **REGULAR MEETING**

**JULY 22, 2008**

**PRESENT:** Koepp-Baker, Davenport, Escobar, Lyle, Mueller, Tanda

**ABSENT:** Acevedo

**LATE:** None

**STAFF:** Planning Manager (PM) Rowe, Senior Planner (SP) Tolentino and Minutes Clerk Johnson.

Chair Koepp-Baker called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Koepp-Baker opened the floor to public comment for matters not appearing on the agenda.

Dick Oliver, 385 Woodview Ave., #100, spoke to the Commissioners regarding an issue recently identified by the Measure C Subcommittee: the fact that park fees are *not* reimbursable, as had been previously thought. Mr. Oliver said that just yesterday, a City official, after two years of developers having thought that the fees were at least 50% reimbursable, had informed that was not the case. "Developers made considerable park amenities thinking that there would be at least 50% reimbursement. Now we know there is to be *no* reimbursement and I am asking if the Commissioners need to make any adjustment to the points awarded for private open space and recreation improvements. I really think this was unintended. Yesterday was the first time we heard of it. We all thought that with the commitment we made, we could get reimbursed," Mr. Oliver said.

With no others present indicating a wish to address items not appearing on the agenda, the public comment period was closed.

# PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 2

## CONSENT CALENDAR:

### MINUTES:

JULY 8, 2008

**COMMISSIONERS MUELLER/DAVENPORT MOTIONED TO APPROVE THE JULY 8, 2008 MINUTES WITH THE FOLLOWING REVISIONS:**

Page 2, paragraph 4, line 1: ~~agenda~~ *calendar*

Page 5, paragraph 5, last line (add for clarity): ...Build it Green (BIG)

Page 6, paragraph 4: ~~panels~~ *roof tiles*

Page 6, line 1, (add): ...feet *8 inches*

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

## PUBLIC HEARINGS:

**1) DAA-05-04D/  
DSA-07-04C:  
E. MAIN-  
MARRAD/  
DIVIDEND** The applicant is requesting approval to amend the development agreement and development schedule to allow for an extension of time to begin construction of a 35-unit single-family residential development located south side of east Main Ave., approximately 500 ft. east of Calle Mazatan.

PM Rowe presented the staff report calling attention (table/page 2) containing original dates of the Development Agreement, together with the previously amended dates as well the current request and clarifying the dates in response to questions from the Commissioners. PM Rowe also called attention to minor modifications to the prepared resolutions, newly distributed at the meeting.

Chair Koepp-Baker opened the public hearing.

Dick Oliver returned to the podium as the applicant, and offered to answer questions.

Commissioner Lyle said, "I need some persuasion for some of the extensions. I prefer the extensions for FY 2006/07 and 2008/09 be 5 or 6 months, and less on some of the units, e.g., April 30 or May 31 date. Part of my thinking is that developers often say that banks will not lend for more than 10 units at a time. If this is the case a year from now, what will you propose?"

Mr. Oliver responded, "I'll probably have to come back and tell you the lender won't lend on more than 10 units then either. I can tell you that we will do with nine but for sure, no one knows what will happen to the market. If the market picks up, we will be starting. We just had project reappraised and current the lots are \$175,000 less than when bought the property. If the Planning Commission pushes back the dates six months, I will still have to return for further modifications. In Alicante, we are splitting the projects into phases 3b and 3c, and I will certainly commit to starting as soon as possible."

Commissioner Lyle pointed out that the schedules, as shown, indicate 30 days and some 60. "I prefer to see 60 days between the pulling permits and commence construction dates, especially for a new project," he said. Mr. Oliver explained, "The reason is that we don't

**PLANNING COMMISSION MEETING MINUTES**

**JULY 22, 2008**

**PAGE 3**

start house construction until the streets are in and the pads poured. We can have commencement when the pad poured and then the commence construction is met.

When we commence construction, building fees and school fees must be paid, that results in about \$15,000 in impact fees which must be paid; so we would rather retain the 30 days so our money is not tied up.”

With no others present to speak to the matter, the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF THE DEVELOPMENT AGREEMENT APPLICATION, DAA 05-04D: E.; MAIN-MARRAD/DIVIDEND TO ALLOW FOR A 12-MONTH EXCEPTION TO THE LOSS OF BUILDING ALLOCATIONS FOR THE 13, FY 2006-07 ALLOCATIONS AND FOR THE 5, FY 2007-08 ALLOCATIONS A 16-EXCEPTION TO THE LOSS OF BUILDING ALLOCATIONS FOR THE 8L, FY 2008-09 ALLOCATIONS AND A 4-MONTH EXCEPTION TO THE LOSS OF BUILDING ALLOCATIONS FOR THE 8, FY 2009-10 ALLOCATIONS, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, TOGETHER WITH THE FOLLOWING MODIFICATIONS TO THE DISTRIBUTED RESOLUTION:**

**{1<sup>st</sup> WHEREAS} ...awarded 34 building allocations...**

**{4<sup>th</sup> WHEREAS} ....34 building allocations (+ 1 replacement unit) awarded...**

**COMMISSIONER ESCOBAR PROVIDED THE SECOND TO THE MOTION, WHICH PASSED (6-1-0-1) BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, MUELLER, TANDA; NOES: LYLE, who restated his objections raised during discussion with the applicant; ABSTAIN: NONE; ABSENT: ACEVEDO.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE MODIFICATIONS AS IDENTIFIED IN THE STAFF REPORT (PAGE 2) TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-04-19: E. MAIN-THRUST/MARRAD. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-1-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, MUELLER, TANDA; NOES: LYLE, who restated his objections raised during discussion with the applicant; ABSTAIN: NONE; ABSENT: ACEVEDO**

**2) DAA-05-06C/  
DSA-07-10C:  
GINGER-  
CUSTOM ONE**

A request to amend the development agreement and development schedule for a five-unit single-family residential development proposed on a 1.23-acre site located on the southeast corner of the intersection of Rose Lane and Ginger Way. A 12-month extension of time is requested.

PM Rowe presented the staff report, noting the requested changes, and providing an overview of the current dates for both the development agreement and the development schedule. PM Rowe also called attention to minor modifications to the prepared resolutions, newly distributed at the meeting.

Chair Koepp-Baker opened the public hearing.

# **PLANNING COMMISSION MEETING MINUTES**

**JULY 22, 2008**

**PAGE 4**

Joe Walton, PO Box 1265, representing the applicant (Custom One) said he was available for questions.

With no others present to speak to the matter, the public hearing was closed

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-06C: GINGER – CUSTOM ONE TO ALLOW FOR A TWELVE-MONTH EXCEPTION TO THE LOSS OF BUILDING ALLOCATIONS, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, TOGETHER WITH THE FOLLOWING MODIFICATION TO THE DISTRIBUTED RESOLUTION:**

**{add 8<sup>th</sup> WHEREAS}: WHEREAS, extension of time is necessary due to an unforeseen delay in securing right of way and improvement bonds for off site improvements on Rose Lane (property owner recently died), and**

**COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE MODIFICATIONS AS IDENTIFIED IN THE STAFF REPORT (PAGE 2) TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-04-19: E. MAIN-THRUST/MARRED. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

**3) DAA-05-07D/  
DSA-07-05C:  
WRIGHT-  
MANANA**

The applicant is requesting approval to amend the development agreement and development schedule to allow for an extension of time to begin construction of a 15 unit residential development located on the northeast quadrant of the intersection of Wright Ave and Oak Grove Ave.

PM Rowe presented the staff report, calling attention to the extended development schedule and development agreement described in the table, page 2. PM Rowe called attention to the letter of justification submitted by the applicant, which cited the myriad of problems regarding transactions with the Santa Clara Valley Water District in effort to achieve decision from that District for adjacent creek flood control improvements.

Chair Koepp-Baker opened the public hearing.

Dick Oliver approached the podium again, advising he was the applicant. "I have to express frustration [with the Water District]," Mr. Oliver stated. He then proceeded to present an overview of the project:

- the application was first presented over four years ago
- half of this project site will become improvements to Llagas Creek
- application is also into the Army Corps of Engineers and the State Water Resources Board

## **PLANNING COMMISSION MEETING MINUTES**

**JULY 22, 2008**

**PAGE 5**

- two sets of approval from the Corps and the Resources Board but the Water District appears not to want to process the application
- a couple of months ago, the District asked for the approved permits; the Corps permit had just expired
- at the applicant's request, <former Santa Clara Supervisor and Alternate Director of the Water District Board> Sig Sanchez set up meeting with Water District representative Sue Tibbets two months ago
- the applicant has other projects and issues, but continues to hope for progress
- issue from Water District not clearly identified: 'No matter what we do, it is not enough; considering the extended period of time since the meeting with Ms. Tippetts, and the lack of response Mr. Oliver will probably have to ask Sig Sanchez for assistance again'

Commissioner Lyle asked, "With the Water District delay, what has been the effect of getting other items considered? Has there been a hold up on the design?" Mr. Oliver stated that was the case.

Commissioner Lyle continued by asking, "If you get approval, and you are ready to go, is there assurance they won't ask for further changes?" Mr. Oliver responded, "The Corps are supposed to be doing work through the Town and this is the first part so we are ready to go." Commissioner Lyle asked if there is anything in the works for placing a culvert under Hale and Wright Avenue. Mr. Oliver said, "No, the plan is to have widening of the area for a detention area north of Wright so a metered flow can be placed." Commissioner Lyle questioned, "By adding more pavement, are you adequately sized to accommodate the additional storm water runoff?" Mr. Oliver said the project would provide a separate on site detention pond.

Commissioner Lyle noted that the applicant is asking for extension for all 15 units. "I perceive what you really need is extension for the first six. You could be done in early 2010 that way." Mr. Oliver said, "That forces me to come back if the Water District doesn't give approval. When we start the project, we must do all grading at one time and if we push the date up six months, we would have difficulty with that.

Commissioner Mueller asked, "Do you want the Planning Commission to get involved with the District?" Mr. Oliver responded, "That would probably be good. And I can tell you (SCE) Creer has been intimately involved." Commissioner Mueller suggested having a District representative speak to the Planning Commissioners. "This is an intersection with one of worst flooding areas in the City. I think we should do something supportive," Commissioner Mueller said. Mr. Oliver said he would contact Mr. Sanchez and see if he can be helpful. Subsequently, Mr. Oliver will contact Chair Koepp-Baker to advise if further Planning Commission accommodating action is needed.

Chair Koepp-Baker spoke of the recent floodings and expressed concern that more flooding might occur outside the downtown if inaction continued.

With no others present to speak to the matter, the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING**

**PLANNING COMMISSION MEETING MINUTES**

**JULY 22, 2008**

**PAGE 6**

**APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05—07D: WRIGHT AVE.- MANANA TO ALLOW FOR A 24-MONTH EXCEPTION TO THE LOSS OF BUILDING ALLOCATIONS FOR THE 6 ALLOCATIONS FOR FY 2006-07 AND 9 ALLOCATIONS FOR FY 2007-08. NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS WITHIN THE RESOLUTION, COMMISSIONER ESCOBAR SECONDED THE MOTION.**

Under discussion, Commissioner Lyle expressed opposition to the motion, saying, “There is no justification for moving 6 units out that far. The applicant’s letter of justification says 1 year but he will be permitted 21 months to do the work. The motion will give 2 years and 4 months. I think he could start in April 2010; so I’m very much against this motion.”

Chair Koepp-Baker was requested to reopen the public hearing.

Chair Koepp-Baker noted that she understood the applicant could not lay a building pad until the culvert is finished. “He can’t do anything unless the extension(s) is granted,” she said. Mr. Oliver agreed with her assessment.

With no others present to speak to the matter, the public hearing was closed

Commissioner Mueller stated the issue was not the culvert but the channel.

Commissioner Lyle responded, “What does that have to do with setting the dates to the end of 2010?” Chair Koepp-Baker stated, “Given this is the 4<sup>th</sup> year the applicant has been working with the Water District, I don’t see that would be too rapid for the work to do.” Commissioner Lyle responded, “It doesn’t have to be done overnight but he will have 21 months at present.”

**THE MOTION PASSED (6-1-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, MUELLER, TANDA; NOES: LYLE, who had continuing concerns identified during discussion; ABSTAIN: NONE; ABSENT: ACEVEDO**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICANT MC-04-27: WRIGHT AVE. – DIVIDEND, INCLUDING THE FINDINGS AND CONDITIONS AS PRESENTED. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED (6-1-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, MUELLER, TANDA; NOES: LYLE, who had concerns regarding the length of time extension for the 6 units, identified during discussion; ABSTAIN: NONE; ABSENT: ACEVEDO**

Commissioner Mueller said, “Considering the seriousness of the need to have work done on this project, and as indicated in the public hearing, when the Chair gets an answer from Mr. Oliver, I think we need to initiate some letter writing to the Water District. This is a flooding issue that affects the City. So if Sig Sanchez says the answer from the District is ‘no’, we need to be kept informed.” Commissioner Mueller also volunteered to speak with SEC Creer regarding the matter for a comprehensive united front from the City.

# PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 7

Commissioner Lyle reminded that local resident Rosemary Kammi is the Chair of the Water District Board and should be contacted along with Mr. Sanchez.

Commissioner Mueller commented, "If approval were to be given next week, Mr. Oliver could move dirt; these are already delayed allocations. The fact that the date is out two years does not prohibit him from beginning."

## **4) UP-08-08: W. MAIN- AMERICAN MEDICAL RESPONSE**

The applicant is requesting approval for a conditional use permit (CUP) for the American Medical Response ambulance substation with 24 hour crew housing and storage located in a commercial house on the north side of W. Main Ave just east of the VTA parking lot at 145 W. Main Ave. The property is zoned Central Commercial Residential CC-R.

PM Rowe gave the staff report, providing an overview of the location, current zoning, and General Plan use. PM Rowe advised that findings are required for a CUP, and proceeded to summarize the prepared findings. "Because this site is in a residential area," PM Rowe said, "staff has noted that the company conducts business as a 24-hour service. Therefore a recommended condition is that between the hours of 8:00 pm and 8:00 am, the sirens kept to a minimum." (Page 2/staff report; #12) PM Rowe also noted that the signature page should contain the current Chair's name.

Commissioner Escobar asked PM Rowe to elaborate on why that time frame was suggested. PM Rowe advised of the residential nature of the site, and said staff felt that generally the evening hours might be most disruptive to the residents. Commissioner Lyle asked what time Britton (Elementary School) begins classes. PM Rowe suggested it was at 7:45 am. Commissioner Lyle pointed out that students might be walking to school at the times staff had recommended.

Commissioner Davenport asked if this site would cause the company to do business under the same State law/guidelines at this location as at the fire station (current location of the business) Dunne. "Will this be more restrictive or is it aligning with current practice?" he asked.

Chair Koepp-Baker opened the public hearing.

American Medical Response (Ambulance Company) representative Marcie Morrow, 111 Pullman Way, San Jose, was present to answer questions, which were then presented:

### Commissioner Mueller

- ◇ when the ambulance leaves for an emergency run, will the building be locked [yes]
- ◇ any controlled substances stored on site [no; all are stored in the ambulance vehicle and are locked; both crew members have keys so the ambulance remains locked all the time]
- ◇ how would 'walk-in patients' be dealt with [seem immediately and control calls made]
- ◇ absence of signage indicating help available [presence of ambulance indicates assistance available; generally signage is not placed, but when personnel is there, people can get help]

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 8

### Commissioner Lyle

oxygen store/ possibility of explosion [OSHA guidelines M-sized cylinders chained to wall; smaller D-tank cylinders (typically 6 - 10 in number) stored on site; if this is a concern, can have pickup at other sites; reminder: these have been stored at the fire station for 26 years without incident]

### Commissioner Davenport

any similar silent siren restriction in the past at the fire station [not 'per se' but company maintains a 'good neighbor policy'; Los Gatos operation explained; further detail of CHP effective use guideline: service must provide every opportunity to get to patients]

Ms. Morrow pointed out that the last line of the agreement - as written - covers situation the siren use situation and emphasized that the company places prominence on being a good neighbor. "We want to stay at this location," Ms. Morrow declared.

There being no others present to speak to the matter, the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE A 24-HOUR AMR AMBULANCE SUBSTATION FACILITY AT 145 W. MAIN AVE., INCLUSIVE OF THE FINDINGS AND CONDITIONS SO NOTED, AND CORRECTING THE CHAIR'S SIGNATURE LINE. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH CARRIED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

### **5) UP-08-07: SPRING-MT. HOPE CEMETERY**

A request for approval of a conditional use permit (CUP) to expand the existing 5.11-acre Mt. Hope Cemetery to approximately 11 acres. The cemetery is located on Spring Ave. opposite the intersection at Burnell Ave. in a PF, Public Facilities zoning district. A Mitigated Negative Declaration is proposed.

*Disclosure: Commissioner Mueller advised he had visited the site.*

SP Tolentino provided the staff report, noting the background of ownership and operations. The original use permit has expired, she said, and the current owner (Morgan Hill Funeral Home) wishes to expand the cemetery to the west and south. The plan for expansion was displayed. SP Tolentino called attention to the required findings, and gave explanation of an abbreviated project description, including the owner's statement that there would be no structures placed for public gatherings. "The applicant has said they would like to have customers choose own markers, with staff now recommending flat markers in sloped areas of the facility," SP Tolentino said, as she noted several other recommend conditions.

Continuing, SP Tolentino said the City has received a number of complains regarding the current condition of the cemetery, while reminding this is a 'fairly new ownership'. "The owner is working on tall weed eradication and has a well being drilled to keep up the areas requiring water. Additionally, the neighbors have asked about work in the <proposed> expansion area, as well as having expressed concerns of views being altered and the impacts of active burials on current residents, with fencing of the operations being another concern," SP Tolentino said.



## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 9

SP Tolentino noted that communication has been received from the neighboring residents, resultant in several conditions being recommended in the prepared resolution. Those conditions include:

- restrictions in slopes of 20% or more and above 420' elevation ~ flat markers
- setbacks
- heights of structures (e.g., markers/burials)
- Administrative review for water storage tank/screening/landscaping/ fencing

SP Tolentino called attention to the <newly distributed> revised proposed Resolution, as well as the Mitigated Negative Declaration and the Mitigation Monitoring Plan.

In the revised Resolution, SP Tolentino noted one further change:

**6c** *The 12-ft height limit shall include any accessory statue, architectural feature, religious symbol or other decorative or structural element.*

Commissioner Escobar asked how the 12-ft height was ascertained. SP Tolentino said that was the standard for accessory structures in the City.

Commissioner Davenport asked about the distance for setbacks from adjacent properties. [10-ft setback recommended] Commissioner Davenport further asked about other cities staff may have contacted. SP Tolentino explained her discussions with the Cities of Colma and San Jose focused on the type of markers allowed in their hillside cemeteries.

Commissioner Lyle asked for information regarding the location of the water tank and the well – and whether a pump would be required for the well. SP Tolentino advised that there would be a pump, and that the exact placement of the water storage tank would be determined during the Administrative Site Review process. Chair Koepp-Baker said she understood the well was being drilled. Discussion followed explaining that only the water tank and pump require a City permit; the well permit is obtained from the Santa Clara Valley Water District.

Commissioner Tanda observed that there seems to be a conflict between **6b** and **6g** in the prepared Resolution. SP Tolentino explained the differences, and detailed the lack of conflict.

Chair Koepp-Baker noted that one of the neighbors who sent correspondence mentioned that a line of sight issue would result if only wire fencing were installed. SP Tolentino said the applicant is not suggesting fencing at this time. Commissioner Lyle said he thought there were fences in the neighborhood. SP Tolentino referenced the presence of good neighbor fencing in the area. Commissioner Mueller said he had observed good neighbor fences ‘all the way up’ during his site visit.

Responding to comments from Commissioner Tanda, SP Tolentino said, that much of the area would require flat markers under the conditions recommended. Commissioner Tanda confirms anything over 420-foot elevation would require flat markers.

Chair Koepp-Baker mentioned that in the staff report two other cities did not impose restrictions on building structures (e.g., markers/burials) within the facility, but followed funeral home regulations. SP Tolentino advised the owner would like to have flexibility to offer any type of marker/private burial.

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 10

Commissioner Tanda led discussion of the areas where flat markers would be required due to elevation and how screening of existing homes could be preserved. Commissioner Lyle noted that an intervening hill would help screen the area.

Noting the large number of speakers wishing to address the matter – and that two of the speakers had submitted letters included in the staff report, Chair Koepp-Baker opened the public hearing, asking that issues/concerns/items of interest not be repeated.

It was acknowledged that the applicant was not in attendance, but had been informed of the meeting time, place and location. Commissioner Mueller asked, “Before we start taking public testimony, should we request the owner be here?” Commissioner Escobar suggested having testimony from the public; and following receipt of the testimony, having the Commissioners decide whether to continue the matter or not.

Scott Murcay, 16610 Glenn Canyon Court, indicated the location of his dwelling as he thanked staff for working with the neighbors on this issue. Mr. Murcay said he was encouraged by the work on flat marker issue, and requested further consideration of setbacks as he had researched other cities, where larger setbacks were had. He also referenced the need for fencing. “We want a say in further study of the landscaping. We really want to know what we will see on a daily basis. We have concerns about the current state of the property: the fence is down so people go in who don’t belong nor need to be there. We certainly have quality of neighborhood concerns as to what the future might bring. We are here tonight to ask for reconsideration of the staff recommendation for approval.”

Commissioner Escobar asked if the speaker had received notification disclosure at the time of purchase of his home. “None verbal, and not through the papers we received,” Mr. Murcay responded. Responding to further questions from Commissioner Escobar, he said he had no memory of the cemetery site being discussed during his home purchase.

Ted LeCaf, 220 Foothill Court, told the Commissioners his property was on the east side of the proposed expansion. Mr. LeCaf said his biggest concern was a lack of study for water runoff, as he explained the route the ‘large runoff’ takes onto his property and the property to the north. Mr. LeCaf also referenced the setback at the top of the hill where he said there was ‘no control after dusk’, with the police being called frequently as there were people coming in unauthorized. Of great concern also, Mr. LeCaf continued by detailing the increase in trash even though the new owner had brought in a larger bin. Mr. LeCaf said he and his wife had lived there before the new owners took over and put up a small fence on his side of the property. “However, it is a little metal fence, and so we put up our own fence rather than overlook a funeral during a social gathering. We would like a larger, taller fence,” Mr. LeCaf said. “But most important is the water drain study for a culvert. Commissioner Mueller <to the speaker> “Have you brought up the water runoff problem to the City before?” Mr. LeCaf responded, “No, we have had go find out where the water was coming from. In the winter there is a lot of water runoff toward our property.”

Ricardo Rivera, 235 Foothill Court told the Commissioners he is a neighbor of Mr. LeCaf’s, just to the north. Mr. Rivera reiterated the issues of water drainage problems as he described the location of his house on a slope, which angles back to the culvert.

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 11

“Drainage water is not draining towards the cemetery drainage,” he said. “The water stops at the flat wall at the fence so there is no leading the water into the culvert. The water just makes a stop at a northwest direction across my driveway to the culvert. I did make one phone call to the City when we first moved in four years ago about the water. The response was, ‘that’s why they call it Spring Street’. I ended conversation at that point.” Mr. Rivera continued by talking about the lack of maintenance on the existing chain link fence, which he claimed was not maintained at all; having a large hole in it which rodents and other pests could walk through. “The back of our house faces the cemetery and when I am in my office, I am at eye level with the funeral participants. My hope is that they would put up higher fence or work with the neighbors such as myself to block funeral visuals from window height. We can’t have any events in the backyard. It is very annoying to see people from the deck where they can see the street side. One other issue has been the instances of noise in the cemetery. The police have asked us to monitor activity there. We are not willing to assume that responsibility,” he said.

Commissioner Escobar confirmed that the Rivera’s have lived at the location for 5 years. Commissioner Escobar also discussed with Mr. Rivera the water problems existing at the cemetery or on the mortuary slope. Mr. Rivera told of a torrential rain 3 ½ years ago and told of the route of the water into his backyard. Discussion followed regarding the need for mitigations to control the water.

Commissioner Escobar asked about disclosure of the cemetery. Mr. Rivera said certainly he knew of the cemetery being there but the non-endowment area was not explained.

Farokh Deboo, 1665 Glenn Canyon Ct., told the Commissioners he lives west of the planned expansion. Mr. Deboo provided a handout for the Commissioners, which he then read. Mr. Deboo emphasized he has other concerns of

- lack of a firebreak
- people smoking during evening and night hours, which heightens the fire concern

Vern Delgatty, 16600 Glenn Canyon Ct., said he had been an architect for a well-known cemetery designer, and knew well that profiteering within funeral business leaves something to be desired. Mr. Delgatty said that originally he had not been opposed to the expansion, but was questioning that factor as the applicant was not here. “I strongly suggest waiting for a decision until the owner is present and tells you/us what he is planning to do. We have a great community out there, and I think we would strongly support the point made in the staff report for an administrative site review in order for the neighbors to have a say in the landscape and propose changes as warranted. Mr. Delgatty also spoke on the issues of

- setbacks
- firebreaks [he noted his residence is in the County and the County sent out letters requiring a 100 firebreak
- structures to be allowed in the cemetery: “this City has a tremendous bent for requiring exquisite landscaping and can make this a thing of beauty
- screening on west with trees ~~ could be handled with landscaping
- tank site happens to be highest point of hill ~~ affects all properties; tank does not need to be on highest point of peak
- could put well in different location away from top of hill and still provide water
- owners could come up with greater plan

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 12

Mr. Delgatty stated his opinion that the recommendation to allow private mausoleums up to 120 sf in size is excessive. Commissioner Lyle discussed the size of family mausoleums with Mr. Delgatty.

Christina Valdez, 225 Foothill, told the Commissioners she has lived at this location for 13 years, and expressed support for the concerns raised by other speakers:

- water runoff
- police calls to the site (she has small children and worries for their safety)
- trash
- riffraff
- noise; complaints to the old and new owners has elicited no response
- when she purchased property, there was no indication of expansion of the cemetery ["I definitely would not have purchased the house," she said.]
- concern of resale of homes problems

Moirá Flynn, 16630 Glenn Canyon Ct., told the Commissioners the location of her home site and referenced the letter she had sent to be part of the record. Ms. Flynn said the cemetery slope should provide an exemption for her back yard. "We don't have views like the others but a view of side of the hill. We are asking for flat markers *only* at the small site near our home," she said. "We also note that the setback where the hill slopes upward with a 10-foot buffer does nothing." Ms. Flynn went on to ask for participation in the decision-making for the landscaping. "My family often walks through the cemetery and many parts seem neglected. A real concern is that the new owners have owned the property for two years with little improvement or beautification. We knew the cemetery was there when we purchased. We have seen cemeteries in Burlingame and Los Gatos, which present a view of smaller town cemeteries, which are more peaceful. Last weekend we saw visitor's trash and weeds, which need to be removed. This could be a charming small town cemetery. The flat marker area is a good idea. Again, we would like to participate in the landscaping plan," she said.

Commissioner Mueller led discussion with Ms. Flynn regarding the V-culvert in her backyard, which Ms. Flynn said did not present a 'lot of water problem'.

PM Rowe explained the route of drainage water where the V-ditch drainage delivery system intercepts and conveys water from the hill downward.

Commissioner Mueller spoke on the restrictions of what landowners can do on the upside of the V-ditch. Ms. Flynn said, "Every lot that has a V-ditch cuts off to the east side of the lot with CC&R restrictions applicable. However, when we bought our house we were told the cemetery had an easement only."

With no others present to speak to the matter, the public hearing was closed.

Commissioner Mueller said, "I want to continue this matter for the applicant to answer questions raised by the neighbors who are here." Commissioner Lyle said he thought that to be a good idea, and said Commissioners could formulate additional questions. Commissioner Escobar said attention should be drawn to solving two issues: the existing property is not maintained and not secured before further discussion regarding expansion could be considered.

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 13

Commissioner Lyle commented there would be opportunity for the applicant to see the minutes of this meeting to better understand the concerns raised. Commissioner Lyle also called attention to the Mitigated Negative Declaration and the section dealing with finding bones and/or human remains. "There needs to be some process as to what the procedures will be if bones are found when digging new graves."

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE MATTER OF UP-08-07: SPRING-MT. HOPE CEMETERY TO SEPTEMBER 9, 2008. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ACEVEDO WAS ABSENT.**

### **6) GPA-08-10/**

**ZA-08-12:**

**BARRETT-**

**COLSON &**

**COLSON**

**CONSTRUCTION**

**CO.**

A request for approval of a General Plan Amendment to change the land use designation of a 5.3-acre site located near the northwest corner of Butterfield Blvd and Barrett Ave from Industrial to Multi-Family Medium. The applicant also proposes a Zoning Amendment to: 1) Change the zoning designation of the site from ML, Light Industrial (Planned Development) to R3, Medium Density Residential (Planned Development); and 2) Adopt a precise development plan for the construction of a 138-suite congregate retirement residence approximately 115,600-sf in size.

SP Tolentino gave the staff report, and reviewed the application background together with the current proposal. SP Tolentino reminded that a year ago the Planning Commission had recommended approval of both the General Plan Amendment and the Zoning Amendment but subsequently, the City Council denied both, citing they did not feel the land use and zone changes were appropriate as this was considered to be a prime industrial site and the Councilmembers feared conversion of surrounding industrial sites to residential if this were to be used as a precedence. Another concern was compatibility conflicts with the surrounding industrial uses -- noise, truck activity, and the lack of safe walking routes in the area.

SP Tolentino explained the applicant still feels this site is suitable as most residents will be in their 80s; walking trails will be provided on site and there will also be shuttle service for shopping and medical appointments. Few residents will have the need to walk in the neighborhood. SP Tolentino said the applicant's company has also built other facilities in industrial areas and has not had problems.

SP Tolentino went on to identify other factors in the application:

- applicant is preserving two mature oak trees
- building designed to serve as a noise buffer to Butterfield sound
- placement of a six-foot masonry wall along the industrial adjacency
- the vacant industrial land inventory [City completed a market survey to evaluate vacant industrial land; there exists 30 years worth of industrial lands; however the City Council felt this to be a prime industrial site]
- also the City received two letters from existing industrial owners in the area who said they were not necessarily opposed to the project, but wanted to make known their presence and don't want to be impacted'

SP Tolentino advised that staff recommended denial based on City Council's previous action on the same application last year. However, approval Resolutions had also been provided for consideration by the Commissioners.

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 14

Commissioners discussed the past events dealing with the application, and clarified:

- the vote by the Council 3 - 1 - 1, with Mayor Tate abstaining
- staff's recommendation for denial was based on the Council's action
- concerns raised by City Council during review of first application dealt with introducing a residential use next to existing industrial and converting industrial lands; the applicant can't fix that by redesigning their project

Chair Koepp-Baker opened the public hearing.

Curry Architecture personnel, Mark Lowen, 471 High St., Salem, OR, was present to represent the applicant. Mr. Lowen went over and clarified the objections of the City Council, rebutting the objections raised. He spoke on the:

- adequate amount of industrial land within the City
- this being a method for meeting the need for senior housing in Morgan Hill
- benefit of higher density residential
- suitability from an investor point of view
- company has 350 facilities and 25 years of experience and is willing to invest \$10 - \$15 million at this site
- senior housing is important
- this site is important for the Holiday company
- site suitability: noise buffer between properties
- confidence that the company can fill the facility
- special noise mitigations will be put into place
- like to be proactive with industrial neighbors to ensure won't inhibit present practices
- if facility is not a good neighbor, the program will not be successful
- the Commissioners established with previous approval conditions that are appropriate
- pedestrian and traffic issues: one big thing is the company's willingness to provide extensive walking paths so the residents don't have to go off site to get adequate exercise
- shuttle will be provided on defined schedule
- the company has chosen this site because Morgan Hill is an excellent location
- Morgan Hill officials are acknowledging the need
- the company feels issues can be dealt with and identified problems 'solvable'

"Now I'm here a year later to ask approval," Mr. Lowen said.

Commissioner Davenport observed, "You went through the process last year. It is not inexpensive to do. What within that year, can you do differently?" Mr. Lowen said, "There is an excruciating process to understand what independent living facilities are. I do not think we presented a good picture nor did we do a good job that first time."

Commissioner Lyle asked about the four on-site managers and two manager suites referenced in the application. Mr. Lowen explained there will be one manager and one co-manager couples who will be available '24/7/365'. He went on to explain that the rooms would be equipped with emergency pull cords to alert on-site managers in the event of a medical emergency.

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 15

Responding to a question from Commissioner Tanda about the cost and value of industrial land comparative to residential, Mr. Lowen said, "This land is more affordable. There are approximately 5 acres, and I can tell you the various factors of this model, which are 'tried and true'. Commissioner Tanda said, "It sounds like what you are describing is facilities not near the needs of the residents who must then be transported."

"We need a facility to be located within reasonable distance of churches, medical facilities, etc.," Mr. Lowen said. "The last thing we want to do is have a facility at the edge of town. Peace and quiet are not attractive to our residents. The ideal facility is a place where residents can do a lot of walking within the facility and use our transportation for outside trips. Some of the residents own cars - about 15% keep cars on site for 1 year - but most residents who move into our facilities curtail driving."

Commissioner Mueller asked about a 'typical age' for the residents. "78 - 83," Mr. Lowen said. "When they enter the late 80s - early 90s they generally need to move to another facility."

Commissioner Mueller asked Mr. Lowen to identify other, similar locations within the company's holdings. Mr. Lowen responded by listing facilities in Bakersfield, CA; Helena MT; St. Joseph's, MO; Richmond, VA, and several others. As he illustrated the locations with pictures, Mr. Lowen said, "Please note that some of these facilities are located next to a commercial bottling plant, behind a service station, adjacent to two major arterials, with other locations in residential areas."

Bob Dwyer, 19151 Calle Moniz, told the Commissioners he was one of the owners of this property and worked as a commercial broker and real estate salesperson. "In my opinion we could have had the Council's approval but we did not do good outreach. Most everyone we talked to loved the idea, and then one neighbor objected. That person did not understand the concept and through a whole cascade of events, we came to know there was not enough outreach and a lack of understanding." Mr. Dwyer went on to say that, he has surveyed the town, and there are more prime industrial properties than have been documented as being almost 1.4million sf available. "Transferring this site to residential will not be a problem," he said. "The real shortage is senior housing so now is the time to change the zoning." Mr. Dwyer told the Commissioners it is important to look at the history of the site and realize that until the late 1990s, the site had been zoned residential, and explained the actions, which resulted in the current zoning, e.g., the extension of Butterfield Boulevard, when the zoning was changed.

Continuing, Mr. Dwyer said, "It sounds crass but in order for this site to be affordable and to make it work, it all comes down to price." Mr. Dwyer went on to speak to the costs of various sites in the City and the effect of location on varying costs per square foot for production.

Commissioner Mueller discussed with Mr. Dwyer the available industrial lands within the City.

Susan Fent, 16835 Gallop Dr., told the Commissioners she is a gerontological social worker. "When I heard of this project I became very excited as housing is a paramount issue with family members looking for housing for their loved ones. This will be a

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 16

wonderful place for seniors to be in Morgan Hill,” she said. Ms. Fent went on to speak to the need for understanding the different types of housing for seniors. “This is a wonderful opportunity for folks interested in congregate housing, those who want to maintain independence in their own homes/space. These folks want to remain in the Community. This particular site is enticing as it is half a mile away from the Senior Center. We want folks to come to the Community Center and the Senior Center by having housing on Butterfield, which is close to the theater, etc. There is a flat-surfaced walkway on Butterfield for the residents to walk, and the project provides affordability for the residents.

Commissioner Tanda asked Ms. Fent to respond to the consideration by the City Council that surrounding areas of industrial lands do not provide ability for walking and diversity of sight. Ms. Fent responded, “There seems to be an assumption that older residents can’t make good judgment. I believe most seniors are competent to make good decisions for their living experience. I think the whole sidewalk area makes for safe walking. I can see people using walkers on Butterfield and it would be good if there were sidewalks all the way to Tennant Station.”

Commissioner Mueller asked, “In your experience, how would seniors react to noise levels around the proposed project?” Ms. Fent said, “Seniors who choose to live there will decide if the noise is at appropriate levels.” Discussion evolved regarding noise mitigations to be in place.

Mark Reuter, 44 Kirby Rd., said he has been a 24-year resident and business owner in Morgan Hill, and now owns five industrial condos on Caputo Drive. “From my perspective as the owner of buildings, keeping in mind that I am not against this proposal, I have talked to all my tenants and I have not found one person against it. Some are not informed but are willing to learn more about it. As for myself, I am definitely in favor of it.” Mr. Reuter told of his personal experience as he expressed support for the application.

“I’ve been looking with Bob (Dwyer) at the maps and think widening the streets will be positive,” Mr. Reuter said. He went on to volunteer to act as a trained facilitator to help achieve positive resolution of any remaining issues.

Deepika Pathak, 10400 Wunderlich Dr, Cupertino, spoke on behalf of her father, Pradeep Sharma, who owns the small adjoining piece of land fronting on Butterfield. Ms. Pathak said her father’s concern is that he wishes to use the property for a retirement home and now worries that the piece of land may become un-sellable. “The property is light industrial now but when he purchased it 25 years ago as residential the thought was to retire in California. Then when Butterfield was extended, the City took 1/3 of the land so now what remains is funny shaped and we are concerned,” she said. Ms. Pathak recalled for the Commissioners and staff that Commissioner Acevedo had recommended to have zoning changed on their property if the requested zoning on the site under discussion goes through. Ms. Pathak also expressed their family’s concerns regarding the access easement through the adjoining property to their site. “We have concern of entry as we are not knowledgeable of zoning and other changes. Instead of an easement we feel our own entry might help to resolve future issues,” Ms. Pathak said.

Commissioner Mueller recalled that at a previous meeting the applicant had indicated they



## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 17

tried to get in touch with the Sharma family, with no response. Mr. Dwyer explained communication had ensued following hearing from her with correct contact information. Ms. Pathak said the family was interested in hearing about the proposed offer for the property, and she praised SP Tolentino for efforts at communicating with her as the family representative.

Peter Anderson, 17440 Birgel Dr., said he wanted to address the issue of pedestrian traffic on Caputo Drive, to wit: Caputo Drive is not a place where people walk. Mr. Anderson explained that in his work as a geologist, he has had clients in San Francisco with retirement communities. "There is one of the retirement communities right next to the San Andreas fault and where about 300 seniors live. When I worked there, I had lunch with those seniors as a group would gather to chat – and there were several Stanford people so the conversations were challenging. Those seniors walked on the paths throughout the community where they lived. But they did not visit the geological site – they had their own walking pattern and never initiated interaction outside that walking pattern. So on Caputo Drive, there should not be any objection as there probably will be no interaction."

Commissioner Escobar asked how safe is that area of Caputo Drive? He explained that the question was stimulated by the 'kind of understated issue of industrial areas'. Commissioner Mueller joined the thinking by asking if there had been any criminal activity, e.g., tagging, burglaries? Mr. Anderson responded that while it could not be considered criminal activity, he had observed two young mothers with strollers walking in the street, which elicited a big laugh. "Honestly, I haven't seen any problems," he said.

Dennis Kennedy addressed the Commissioners as being supportive of the application. He reiterated the City Council vote, and said there would be greater efforts at providing more and higher information to the Council if the Commissioners supported the project. Mr. Kennedy stressed that one aspect of the project would be improvement of Barrett with widening of that street and installation of sidewalks. "That will help everyone," Mr. Kennedy said. "Some of the existing businesses have difficulty with deliveries as turning trucks is difficult and this will be much improved."

Mr. Kennedy announced that he had 'turned 70 last Saturday' and was still involved in competitive water skiing. "So now I have a different perception of seniors than that mentioned earlier," he said. "Commissioner Davenport asked why the City Council did not approve the application for change in the General Plan and zoning last year, and why we are bringing it back now? "We just assumed it was going to be approved the first time. We really didn't do our homework. However, now we have been meeting with residents and now we are doing the work needed, and we are still working on it. But if it is felt that more vetting is needed, we will be happy to use a facilitator," Mr. Kennedy said. He concluded by asking for support and said he hoped the City Council would agree that this project is needed on this site in particular. "If not that site will be an eyesore for 20 more years but we hope they can feel the desperate need," he said.

Commissioner Lyle asked Mr. Lowen: Ms Fent said there was need for housing for seniors coming to Morgan Hill; does Holiday give preference to Morgan Hill residents. Mr. Lowen responded, "Holiday typically draws about 80% of the residents from within a 10 miles radius of the area where we build." Commissioner Lyle asked if the company has specific policies for encouraging local citizens to become residents. Mr. Lowen said he

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 18

did not know if Morgan Hill residents would get priority for the units.

Commissioner Lyle asked if the proposed street improvements would go all the way to Butterfield, across the adjoining parcel, i.e., in front of Mr. Sharma's property as well? [yes] Mr. Kennedy said that he had spoken with Mr. Dwyer and efforts were being made to try to work out an agreement for purchase or at a minimum provide access to that property. Mr. Dwyer spoke, confirming there was an effort to purchase the Sharma property, if the price was reasonable. He cited past difficulties with communication as being a reason the negotiations had not been completed. Mr. Dwyer suggested that parcel might be too small a property to be working commercial. SP Tolentino said it could be envisioned to be more of a 'neighborhood commercial'.

Commissioner Mueller asked Mr. Kennedy to elaborate on why you think you can be more successful with the City Council than previously. Mr. Kennedy said some meetings had occurred, but he could not discuss those due to Brown Act issues. "We do feel we will have much more support than last time. I think there is a difference in the thinking," Mr. Kennedy said.

Chair Koepp-Baker asked if the widening of Barrett would likely occur before actual construction. Mr. Kennedy said they would be part of the site improvements

With no others indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Mueller said he had other questions and asked that the public hearing be reopened.

Commissioner Mueller said, "In the context of our discussion, and knowing the scenario of the housing market to be different from a year ago, when we didn't know other applicants would be interested in changing the use of industrial lands, why should we let this single applicant have the General Plan change and the zoning change, instead of broader context for addressing the issue of senior housing? Mr. Kennedy responded that there were four proposed projects: only 1 congregate care, 2 assisted living and {his understanding of the other project} was that of senior apartments. This is strictly congregate care only. This is a unique project as congregate care was not intended to be part of the RDCS competition. This location, which has been referred to as a 'prime industrial site,' is a different light industrial area, not as prime as Morgan Hill Ranch and the Alteria site. Commissioner Mueller asked, "What about precedence setting?" Mr. Kennedy again responded, saying, "It is a question of good location. It may be that the City needs to earmark more land for senior housing, which is a desperate need. Our project is now ready to go. I don't believe the other projects are nearly as far along."

Ms. Pathak returned to the podium and said, "It has been mentioned a couple of times that our family has been non-responsive. We missed communication in the past, but we have agreed with SP Tolentino that e-mails work well for us. Ten years ago, we were bombarded with phone calls from brokers and one actually put a 'for sale' sign on the property without our knowledge. My father wants to make something good out of it."

The public hearing was closed.

## PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 19

Commissioners discussed:

- project description
- much of the testimony said the project had previously not been properly explained
- concerns of items a (prime industrial land) and b (precedence setting for conversion of industrial land) on page 2 of the staff report
- don't mind setting precedence for senior housing; continued concern at this site on industrial land
- belief that the project would be beneficial
- industrial land study
- different uses on two sides of Caputo
- staff recommendation influenced by denial by City Council

### **COMMISSIONERS MUELLER/DAVENPORT MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION.**

Under discussion, Commissioner Lyle asked for clarification on the 250-foot buffer. SP Tolentino called attention to page 3 of the Mitigated Negative Declaration and page 2 of the Mitigation Monitoring and Reporting Program regarding the 'Tree-Nesting Raptors' mitigation. SP Tolentino recommended revising the condition to read, "...designate a construction-free buffer zone (typically 250 feet, *or as required by the surveying ornithologist*)..."

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL TO AMEND THE LAND USE DESIGNATION OF A 5.3-ACRE STIE LOCATED NEAR THE NORTHWEST CORNER OF BUTTERFIELD BOULEVARD AND BARRETT AVENUE FROM INDUSTRIAL TO MULTI-FAMILY MEDIUM, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN, WITH MODIFICATION OF AN ADDED Whereas\*:**

**WHEREAS, testimony HAS BEEN provided documenting the need for senior housing and congregate care; addressing compatibility issues with adjacent lands and land use designations; and it has been noted in public testimony the property under discussion is not considered one of the prime industrial sites in the City, causing this to be a reason for seeking the General Plan and zoning changes**

\*Staff was directed to further refine the added Whereas, based on testimony and discussion.

### **COMMISSIONER DAVENPORT SECONDED THE MOTION.**

Under discussion, Commissioner Tanda suggested the need to say the Planning Commission had been able to 'boil down the concerns of the City Council' ideas from the discussion being enumerated. Commissioner Mueller said he could agree in part, but felt the main thrust should be the quality of land to be used. "This is not one of the prime industrial lands in Morgan Hill," he said.

**PLANNING COMMISSION MEETING MINUTES**

**JULY 22, 2008**

**PAGE 20**

Further discussion ensued regarding the zoning of the subject property.

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL TO AMEND THE ZONING DESIGNATION OF A 5.3-ACRE SITE LOCATED NEAR THE NORTHWEST CORNER OF BUTTERFIELD BLVD AND BARRETT AVE FROM ML, LIGHT INDUSTRIAL (PLANNED DEVELOPMENT) TO R3, MEDIUM DENSITY RESIDENTIAL (PLANNED DEVELOPMENT) AND TO ADOPT A PRECISE DEVELOPMENT PLAN FOR THE CONSTRUCTION OF A RENTAL CONGREGATE CARE RETIREMENT RESIDENCE, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN, WITH ADDITION OF THE SAME WHEREAS CLAUSE ADDED TO THE GENERAL PLAN AMENDMENT RESOLUTION, COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

Commissioner Mueller announced that, as a discussion point, it had been noted in the staff report that staff thought the zoning should be commercial on the Sharma property. "However, if that property is not purchased by the applicant, that should not go to the City Council with a predetermined recommendation. I think it should be part of the project but not prejudged as commercial." Commissioner Lyle signaled agreement, saying, "But probably not light industrial either." Commissioner Mueller said his concern was not to send a statement to the City Council.

**7) RESIDENTIAL DEVELOPMENT CONTROL** Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System (RDCS).

**SYSTEM**

**(RDCS)**

**QUARTERLY**

**REPORT**

PM Rowe presented the staff report and advised that a number of projects were behind schedule. He then provided an overview of the projects, which required closer scrutiny.

Chair Keopp-Baker opened, and then closed, the public hearing as there was no one present to address the matter.

**COMMISSIONER DAVENPORT MOTIONED TO ACCEPT AND APPROVE THE REPORT AS PRESENTED, AND DIRECTING STAFF TO FORWARD THE REPORT TO THE CITY COUNCIL. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ACEVEDO WAS ABSENT.**

Commissioner Lyle commented that when he as going through the report, he observed a lot of projects which do not have development agreements. Commissioner Lyle asked for an agendaized item to discuss the concern of development agreement getting done and what action the City could take if not the agreements were not done.

Chair Koepp-Baker reminded that once the Commissioners had asked for a status report of

# PLANNING COMMISSION MEETING MINUTES

JULY 22, 2008

PAGE 21

all projects on a spread sheet.

PM Rowe said, "Typically, with development agreements, they are sent for signature with the extensions, but not returned. One way to ensure return would be a requirement for receipt of the agreement before the Planning Commission and/or the City council would consider action. Currently staff has been working on getting the list together as Chair Koepp-Baker mentioned." He went on to tell of the need for binding agreements.

Commissioner Lyle said he was very concerned about not having the agreements, and indicated thinking putting into a Resolution a condition of signing by the applicant within 45 days. PM Rowe said he would return with the matter agendaized.

## 8) SUMMER MEETING SCHEDULE

Noting this matter had been announced for action at this meeting, **COMMISSIONERS ESCOBAR/DAVENPORT MOTIONED TO CANCEL THE SECOND MEETING IN AUGUST AS A SUMMER BREAK. THE MOTION PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.**

**ANNOUNCEMENTS:** PM Rowe announced that at the July 16 City Council meeting, several items from the Planning Commission had been considered, with approval given to extensions for development schedules for projects on Wright Avenue and the Minorca project. Other issues discussed were:

- dealing with the transfer of moderate units from one project to another
- increased heights permitted on East Dunne
- an Ordinance was introduced regarding the Historical Resources, and the Planning Commission recommendations were adopted
- the Senior Housing Policy created extensive discussion; direction given to staff regarding definitions (matter will be returned to the commission)
- adopted RDCS congregate care housing definitions for use as part of the Housing Element Update

**ADJOURNMENT:** Noting that there was no further business for the Planning Commission at this meeting, Chair Koepp-Baker adjourned the meeting at 10:55 pm.

**MINUTES RECORDED AND PREPARED BY:**

---

**JUDI H. JOHNSON, Minutes Clerk**